

REMARKS/ARGUMENTS

Before reviewing the specific rejections interposed by the Examiner, applicant wishes to express his sincere appreciation for the courtesies extended by the Examiner to applicant's attorney in accordance with the telephone discussions therebetween. In accordance with those discussions and in response to the official action in this case, proposed amendments were submitted to the Examiner, and the Examiner has indicated that these amendments overcome the rejections based upon the cited Japanese patent. The Examiner has thus agreed to withdraw these rejections and to consider the allowability of the claims in this application. In that regard, the Examiner has indicated that this would be based upon the Examiner's overall evaluation of this case, and has made some reference to British Patent No. 2,064,642 in that regard. The applicant has now had an opportunity to examine this reference, and has therefore included comments thereon in this response.

Turning to the specific rejections interposed by the Examiner, claims 1, 2, 5, 6, 10, 11, 13, 17, 19, 29, 30, 35, 36, 38, 40 and 41 have been rejected as anticipated by Japanese Patent No. 58210289A to Showa. The Examiner contends that Showa discloses a window assembly including a window frame 3, a window sash 4 positioned within the window frame and capable of moving from closed to open tilted positions, a pair of parallel pivot pins 18 on the window sash 4, and a pair of kidney shaped receptacles 16 integrally disposed within the window frame 3 accommodating sash movement between positions. Showa is also said to disclose the sash 4 cooperating with the window frame 3 to limit the extent of the open tilted position, noting that the upstanding wall to the left of the kidney shaped receptacle 16 as shown in FIGS. 2 and 3 with the upstanding wall acting as a water dam with the top portion of the wall angled 90 degrees for

supporting the window sash 4. In response to applicant's arguments, the Examiner has again contended that applicant's arguments are still more limiting than that of the claims. The Examiner thus contends that when two elements are physically attached together, then they are integral with one another. In this case, elements 6, 13, 14 and 15 are mounted to elements 3 and 12 by means of screws as shown in Fig. 3, and are therefore said to be "integral" with one another. It is said to appear from applicant's arguments that they are based on the receptacle/slot being "integral" with the frame, or more specifically, that the slots/channels are "formed" within the frame. This is said to rely on the product-by-process language, and is said to carry little to no patentable weight. The Examiner contends that what the Examiner was suggesting is that the fact that the slots/channels are positioned between a front and back surface of the frame and not extending out from the frame, as in the Showa reference, represents the difference therebetween. Applicant's other arguments are said to be based on the fact that the applicant still feels that the process of how the receptacles are formed is patentably distinct, and the Examiner's position in response is that in a product-by-process little or not patentable weight is given to the process. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

As noted above, and again in response to the telephone conference between the applicant and the Examiner discussed therein, the claims now not only require shaped slots or channels within each of the opposite side portions of the window frame, but now also specifically require that each of the slots/channels be formed within the window frame so as not to project beyond the substantially planar surface thereof. Clearly this is not a "process" limitation as previously

objected to by the Examiner, but is a positive limitation on the structural nature of this invention, and one which clearly and admittedly distinguishes over the Showa reference. Indeed, based on the Examiner's comments, it is believed that the Examiner agrees that this is the case.

It is therefore submitted that further detailed reiteration of applicant's prior arguments regarding the other distinctions of these claims over the prior art is no longer necessary, and applicant thus again relies upon the fact that these claims clearly and patentably distinguish over the Showa reference.

Claims 3, 12, 18, 29, 33 and 37 have been rejected as being obvious over Showa in view of Yanessa under 35 U.S.C. § 103(a). After admitting that Showa does not provide the pivot pins being retractable as required by these claims, Yanessa is said to disclose a sliding/pivoting sash with pivot pins which are retractable. The Examiner thus concludes that it would be obvious to provide Showa with retractable pins as taught by Yanessa, since retractable pivot pins allow the sash to be easily removed and attached to the window frame. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Once again, in addition to reiterating all of applicant's prior contentions with respect to the clear deficiencies of the Showa reference, as well as Yanessa, the above-noted amendments are also respectfully noted as clearly distinguishing over this combination of references. Yanessa does not, nor is it intended to, overcome the deficiencies of Showa, which relate to the nature of the channels or slots utilized therein.

Claims 4, 15, 20, 22, 23, 25, 26, 32 and 39 have been rejected as being unpatentable over Showa in view of Menegazzo

under 35 U.S.C. § 103(a). After admitting that Showa fails to teach a channel extending along a portion of the window frame, Menegazzo is said to disclose a window assembly with a channel guide 16 extending along a window frame with a kidney shaped receptacle 17 at a pivoting end thereof. The Examiner thus concludes that it would be obvious to provide the window assembly of Showa with a channel guide extending along a portion of the frame as taught by Menegazzo, since a channel extending a portion of the window frame allows the window sash to be tilted greater than 90° from normal. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant would reiterate all of the above-noted contentions regarding the deficiencies of Showa with respect to the basic elements of the claims herein. Applicant would also reiterate all of his prior contentions regarding the Menegazzo reference, and its failure to teach or suggest the basic elements of these claims, including the required kidney shaped opening formed within the window frame itself.

Claim 27 is rejected as being unpatentable over Showa and Menegazzo and further in view of Yanessa under 35 U.S.C. § 103(a). The Examiner contends that these three references teach all of the elements of the claimed invention with Yanessa teaching retractable pivot pins. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Once again, applicant reiterates all of the above-noted contentions regarding the clear deficiencies of Showa, Menegazzo and Yanessa, as discussed above. Once again, the combination of these references neither teaches nor suggests each of the elements of claim 27 and reconsideration and allowance of this claim is also respectfully solicited.

Applicant would finally note that during the discussion with the Examiner the Examiner indicated that, although the amended claims herein do appear to distinguish over Showa, the Examiner would nevertheless reconsider the entire state of the art. The Examiner thus specifically made reference to British Patent No. 2,064,642 ("the '642 patent"). Applicant has briefly reviewed this reference, and it is respectfully submitted that it does not create any basis even for a *prima facie* case of obviousness, either alone or in combination with any of the other references herein.

The mere existence of a groove in the environment of this reference is in fact no different from grooves used in many other areas. In the '642 patent, for example, a bottom hinge for a door mounting is shown to allow the door to open in either direction, as can be seen in Fig. 1 of the '642 patent. Thus, in this case, an arcuate groove 14 is formed in plate 15 which is sunk into the threshold of the door frame. Upon opening the door, one of the wheels 11 on the door bottom defining a lower hinge point on the door will be fixed in the end of its guide 14, while the other will move along its guideway generally in the direction of one of the arrows 16 therein. The existence of this channel in no way teaches or suggests the particular channels, including the kidney shaped channels of the present invention, contained in the window frame of the claims, and in which pivot pins are associated with the kidney shaped receptacles for the overall purpose of the present invention. There is simply no reason or suggestion to combine the '642 reference with any of the other references cited by the Examiner, and in any event doing so would not create the specific shaped slots or channels for the specific purposes of the present invention.

It is therefore respectfully submitted that all of the claims in this application now possess the requisite novelty,

utility and unobviousness to warrant their immediate allowance, and such action is therefore respectfully solicited. If, however, for any reason the Examiner still does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Finally, if there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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